

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

THE ESTATE OF ERIC A.) CIVIL NO. CV04 00428 DAE-LEK
 POWELL, THROUGH PERSONAL)
 REPRESENTATIVE MARY K.)
 POWELL; THE ESTATE OF)
 JAMES D. LAUGHLIN, THROUGH)
 PERSONAL REPRESENTATIVE)
 RAGINAE C. LAUGHLIN; MARY)
 K. POWELL, INDIVIDUALLY;)
 RAGINAE C. LAUGHLIN,)
 INDIVIDUALLY; CHLOE)
 LAUGHLIN, A MINOR, THROUGH)
 HER NEXT FRIEND, RAGINAE)
 C. LAUGHLIN,)
 Plaintiffs,)
 vs.)
 CITY AND COUNTY OF)
 HONOLULU,)
 Defendant.)

DEPOSITION OF MARY K. POWELL

Taken on behalf of Defendant at the Offices of
 Corporation Counsel, City and County of Honolulu,
 Honolulu Hale (City Hall), 530 South King Street,
 Room 110, Honolulu, Hawaii, commencing at 9:30
 a.m., on Thursday, April 28, 2005, pursuant to
 Federal Rules of Civil Procedure.

BEFORE: PHYLLIS K. KUSHINER, CSR NO. 147
 Notary Public, State of Hawaii

EXHIBIT

"8"

POWELL, etc., et al., vs. CITY AND COUNTY OF HONOLULU

MARY K. POWELL

April 28, 2005

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1 And they were trying to convince me for a
2 period of time, I don't know how long, that "This
3 man was by himself, and your husband and your
4 brother are together so don't worry. They are
5 probably okay," you know. "Boy, you are really
6 going to get them when they come in."

7 And, but I paced the beach during this time
8 looking for them, and I was back over kind of near
9 my stuff when I saw them send a jet ski out at a
10 high speed and pull another body in. And at that
11 moment, I knew that the person that was on the
12 back of that truck was my brother, and I knew the
13 person on the back of that jet ski was my husband.

14 Q. We are going to take a break.

15 (Recess was taken.)

16 MR. MAYESHIRO: Back on the record.

17 Q. Ms. Powell, you testified that there came a
18 point in time where you knew that your brother was
19 in the back of the pickup truck?

20 A. (Witness nodded her head up and down.)

21 Q. How did you know that?

22 A. When they sent that jet ski out and they
23 pulled another body in, I just knew. I ran as
24 fast as I could down the beach to where that jet
25 ski came in, and then I really knew because Eric

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1 were holding me away because they needed to do
2 CPR, and I understand that I went into shock.

3 Q. And that is based on what?

4 A. What they told me at the hospital.

5 Q. When the jet ski arrived back to shore with
6 your husband, did you know where the truck was
7 with your brother?

8 A. No. No. I found out later they had taken
9 him to the hospital in an ambulance.

10 Q. Okay. So when you mentioned earlier that
11 you knew your brother was in the back of the
12 pickup when the jet ski came back with your
13 husband, you didn't see your brother any more at
14 Hanauma Bay, correct?

15 A. No, I did not.

16 Q. What is the next thing you recall happening
17 at Hanauma Bay?

18 A. They, they put Eric in the back of an
19 ambulance, and they put me in the front seat of
20 the ambulance. And they were doing, I could see
21 them doing CPR on Eric in the back of the
22 ambulance, and I prayed over and over again.

23 Q. Do you know what hospital the ambulance
24 brought you to?

25 A. We went to Queen's.

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1 was on the back of it blue.

2 Q. Sorry. I'm just trying to think in my mind
3 how I might ask you to make some additional
4 markings on Exhibit 1.

5 Why don't we do this for now? Can you just
6 make an X at the location where the jet ski came
7 back with Eric? Are you able to -- well, are you
8 able to locate that on Exhibit 1?

9 MR. MATTOCH: In terms of an area?

10 MR. MAYESHIRO: Yes.

11 THE WITNESS: In terms of an area, yes.

12 Q. (By Mr. Mayeshiro) Can you just make an X?

13 A. Okay. I think it was right around here.

14 It was close to the road because I remember it was
15 close to the road.

16 Q. And can you just put the letters JS for jet
17 ski?

18 A. (Witness complies.)

19 Q. And when the jet ski came back to shore,
20 were you there already?

21 A. Yes.

22 Q. And what did you do after you saw your
23 husband on the back of the jet ski?

24 A. I screamed. I flipped out, but they
25 wouldn't, they wouldn't let me near him. They

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1 Q. And what happened at Queen's that you
2 remember?

3 A. They brought Eric in, and they immediately
4 hooked me up with a social worker. And I was
5 still in my bathing suit, and they put a blanket
6 around me. And then my -- the doctor came out,
7 and he told me that Eric had died.

8 Q. Did the doctor tell you anything else?

9 A. No, he did not.

10 Q. And what did you do after the doctor spoke
11 to you?

12 A. I, I went in to see my husband.

13 Q. When you arrived at Queen's, did you know
14 where your brother was?

15 A. They had told me that he was at another
16 hospital. I'm, he was at -- I can't remember the
17 name right now.

18 MR. MATTOCH: Straub.

19 THE WITNESS: Straub, and that he had
20 died.

21 Q. (By Mr. Mayeshiro) When did you learn that
22 Jim had died?

23 A. Pretty much immediately. They told me
24 right away.

25 Q. Where were you when you received that